



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>RENEWED PETITION UNDER 37 C.F.R. §1.47(a)</b>	ATTORNEY DOCKET NO. <b>70078.0009USWO</b>	
	U.S. APPLICATION SERIAL NO. <b>10/519,166</b>	CONFIRMATION NO. <b>5276</b>
	BASED ON INTERNATIONAL APPLICATION NO. <b>PCT/FR2003/001933</b>	
	INTERNATIONAL FILING DATE <b>24 June 2003</b>	
INVENTOR(S) <b>Marie-Line ABOU CHACRA-VERNET et al.</b>	EXAMINER <b>Unassigned</b>	GROUP ART UNIT <b>N/A</b>
TITLE OF APPLICATION <b>SOLID PHARMACEUTICAL COMPOSITION CONTAINING A LIPOPHILIC ACTIVE PRINCIPLE AND PREPARATION METHOD THEREOF</b>		

Mailstop PCT  
Assistant Commissioner for Patents  
PCT Legal Department  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**  
26 JAN 2007  
Legal Staff  
International Division

Dear Sir:

Responsive to the Decision on Petition of August 25, 2006, Applicants hereby submit this  
Renewed Petition Under 37 C.F.R. 1.47(a) in view of the following.

02/12/2007 SBASHEIR 00000011 071337 10519166  
01 FC:1463 200.00 DA

**STATEMENT OF FACTS**

1) Applicants gratefully acknowledge the Decision on Petition of August 25, 2006, wherein the PCT Legal Office of the U.S. Patent and Trademark Office indicates that only requirement (2) of 37 CFR 1.47(a) remains to be satisfied in order to constitute a grantable petition;

2) Specifically, the PCT Legal Office has found it inappropriate to conclude that Dominique TOSELLI has refused to execute a Declaration for this application inasmuch as, thus far, the:

... evidence does not demonstrate that a complete copy of the application papers was presented to him . . . See "Discussion" at page 1 of the Decision on Petition of August 25, 2006;

3) In reply, attached to this Renewed Petition is:

a) a facsimile dated November 6, 2006, from Sophie Goulard of Cabinet Ores indicating that on October 3, 2006, a copy of the international publication (PCT/FR2003/001933) and Declaration and Assignment forms were forwarded to Mr. Dominique TOSELLI in an effort to obtain his execution of each (Exhibit C);

b) a "STATEMENT OF FACTS" by Sophie Goulard, dated November 6, 2006, which explains the efforts made to obtain executed Declaration and Assignment forms from Mr. Dominique TOSELLI, and that no executed Declaration and Assignment forms were ever returned despite a written request to do so by October 19, 2006 (Exhibit D);

c) also attached herewith are Exhibits A and A', which are, respectively, copies of the letter sent to Mr. Dominique TOSELLI and an English translation thereof dated October 3, 2006; and

d) further attached herewith is a notice of receipt by Mr. Dominique TOSELLI and English translation dated October 13, 2006 (Exhibit B).

### **REQUEST FOR RELIEF**

The above-noted Exhibits A, A', B, C and D clearly evidence that Mr. Dominique TOSELLI was provided with a copy of the international application and Declaration and Assignment forms for execution on October 13, 2006. However, Ms. Goulard's Declaration (Exhibit D) makes clear that despite a written request to return the executed Declaration and Assignment forms by October 19, 2006, Mr. TOSELLI did NOT do so. In fact, Exhibit D makes clear that as of November 6, 2006, executed Declaration and Assignment forms had still not been returned by Mr. TOSELLI to Cabinet Ores. This clearly is sufficient basis from which to conclude that Mr. TOSELLI had no intention of executing a Declaration for this application.

Accordingly, in view of evidence which establishes that Mr. TOSELLI has refused to execute a Declaration for this application within the meaning of 37 CFR 1.47, it is respectfully urged that the original Petition of October 26, 2005, be granted.

Favorable consideration is earnestly solicited.

S/N 10/519,166

Attorney Docket No. 70078.0009USWO

If any clarification to the above remarks is needed, it is urged that the undersigned be contacted at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.

November 27, 2006

Date

William E. Beaumont

William E. Beaumont

Registration No. 30,996

P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
Telephone No. (202) 326-0300  
Facsimile No. (202) 326-0778

**23552**

Patent & Trademark Office

## **EXHIBIT A**



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75008 PARIS  
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(33) 01 53 21 08 63

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PHARMACIEN DIPLOMÉ  
DE LA FACULTÉ DE PARIS

IRÈNE ORES ☐☐☐  
LICENCIÉE ES-SCIENCES  
LICENCIÉE EN DROIT  
ANCIEN CONSEIL JURIDIQUE

BERNARD ORES ☐☐☐  
INGÉNIEUR CHIMISTE ESCP  
LICENCIÉE ES-SCIENCES

MARIE-JOSÉ VIALLE-PRESLES ☐☐☐  
DOCTEUR EN BIOCHIMIE

PHILIPPE JACQUARD ☐☐  
INGÉNIEUR INPG

THIERRY SCHWARTZ ☐☐  
DOCTEUR-INGÉNIEUR EN PHYSIQUE

SOPHIE GOULARD ☐☐  
MAÎTRE ES-SCIENCES ANALYSES  
BIOLOGIQUES ET BIOCHIMIQUES

VALÉRIE CORIZZI ☐☐  
INGÉNIEUR ÉCOLE POLYTECHNIQUE (PARIS)  
DOCTEUR EN CHIMIE

MICHEL BOLINCHES ☐☐  
INGÉNIEUR ENRACET

VÉRONIQUE MARCADI ☐☐  
INGÉNIEUR ÉCOLE CENTRALE PARIS  
DOCTEUR EN BIOLOGIE

CHANTAL NOËL ☐☐  
INGÉNIEUR ESCM

HÉLÈNE LEBLOIS-PRÉHAUD ☐  
DOCTEUR EN MICROBIOLOGIE  
DOCTEUR VÉTÉRIKAIRE

XAVIER RATABOUL ☐  
INGÉNIEUR ENSAT

STÉPHANIE PATARIN ☐  
DOCTEUR EN BIOLOGIE MOLECULAIRE

ENRICO PRIORI ☐  
INGÉNIEUR ÉCOLE CENTRALE PARIS

THOMAS CHANTEREAU ☐  
DES GENIE CELLULAIRE

#### SERVICE JURIDIQUE

GUY CARDELLI ☐☐  
MAÎTRE EN DROIT  
DESS DE DROIT DE LA PROPRIÉTÉ INDUSTRIELLE

NATHALIE ROUSSET ☐☐  
MAÎTRE EN DROIT DES AFFAIRES

GENEVIÈVE VU THANH ☐☐  
LICENCIÉE EN DROIT DES AFFAIRES

FABRICE PIGEALUX  
DESS DROIT DU M&I

#### SERVICE ADMINISTRATIF

ERIC ANDRIEU  
DIRECTEUR ADMINISTRATIF ET FINANCIER

ANNIE LECUYER  
RESPONSABLE ADMINISTRATIVE

#### DOCUMENTATION & INFORMATIQUE

FABRICE SAUSSEREAU  
DESS DROIT INFORMATIQUE  
ET SYSTÈME D'INFORMATION

☐ CONSEIL EN PROPRIÉTÉ INDUSTRIELLE  
☐ MANDATAIRE EN BREVETS EUROPEENS  
☐ MANDATAIRE AGRÉE PRÈS L'OHMI  
☐ DIPLOMÉ DU C&P

S.A. au Capital de 360 000,00 €  
380 823 079 R.C.S. Paris

#### RECOMMANDE AR

Dominique TOSELLI  
21 Boulevard Arcole  
31000 TOULOUSE

Paris, le 3 octobre 2006

Demande de Brevet américain N° 10/519,166 issue de la Demande  
Internationale N° PCT/FR2003/001933 du 24 juin 2003

Au nom de : CLL PHARMA

Pour : « Composition pharmaceutique solide contenant un principe  
actif lipophile, son procédé de préparation. »

Inventeurs : ABOU CHACRA-VERNET Marie-Line, ZAKARIAN Noël,  
TOSELLI Dominique, GIMET René, LARUELLE Claude

Priorité : France n° 02 07831 du 25 juin 2002

N/Réf.: SG/LD - F106600010/US/PCT

Cher Monsieur,

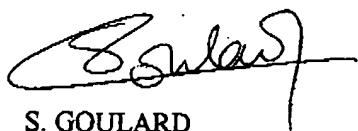
Par courriers recommandés du 14 mars et du 23 juin 2005, nous vous avons  
envoyé, pour signature, une Déclaration et Pouvoir combinés ainsi qu'un  
document de cession pour les Etats-Unis.

A ce jour, vous ne nous avez toujours pas renvoyé ces documents signés.

Nous nous permettons de vous les retourner à nouveau accompagnés d'une  
copie de la publication de la Demande Internationale, dont est issue la  
Demande de Brevet américain en référence, ainsi que d'une copie du texte  
tel que déposé aux Etats-Unis afin que vous puissiez identifier sans  
équivoque l'invention concernée.

Ces documents devant être déposés le 25 octobre 2006 au plus tard, nous  
vous demandons de bien vouloir nous les retourner signés avant le  
19 octobre 2006.

Dans cette attente, nous vous prions de croire, Cher Monsieur, en  
l'expression de nos sentiments distingués.

  
S. GOULARD

  
B. ORES

P.J.: Cession, Déclaration et Pouvoir combinés, copie de la Demande  
Internationale publiée et du texte tel que déposé aux USA.

**EXHIBIT A'**

Annex A'

**Recorded delivery letter**

Paris, October 3, 2006

**Dominique TOSELLI**

**21 Boulevard Arcole**

**31000 TOULOUSE**

**US Patent Application No. 10/519,166 issued from International Application  
PCT/FR03/01933 of 24 June 2003**

In the name of        **CLL PHARMA**  
In respect of :        **"Solid pharmaceutical composition containing an active  
lipophile ingredient, and preparation process thereof"**  
Inventors:            **ABOU CHACRA-VERNET Marie-Line, ZAKARIAN Noël,  
TOSELLI, Dominique, GIMET René, LARUELLE Claude**  
Priority:              **FRANCE – No. 02 07831 of 25 June 2002**

N/Ref: SG/LD - F 106600010/WO/PCT

Dear Sir,

By recorded delivery letters of March 14 and June 23, 2005, we transmitted you a combined Declaration and Power of Attorney and an Assignment for execution.

To date, you have not returned the executed documents.

We take the opportunity to re-send these forms accompanied by a copy of the publication of the International Application, from which is issued the US Patent Application in reference, and a copy of the text as filed in the USA in order to allow you to identify without equivocation the concerned invention.

As these forms must be filed at the latest before October 25, 2006, we ask you please to send us the executed documents **no later than October 19, 2006.**

In the meantime,

Yours faithfully

(Signature)  
S GOULARD

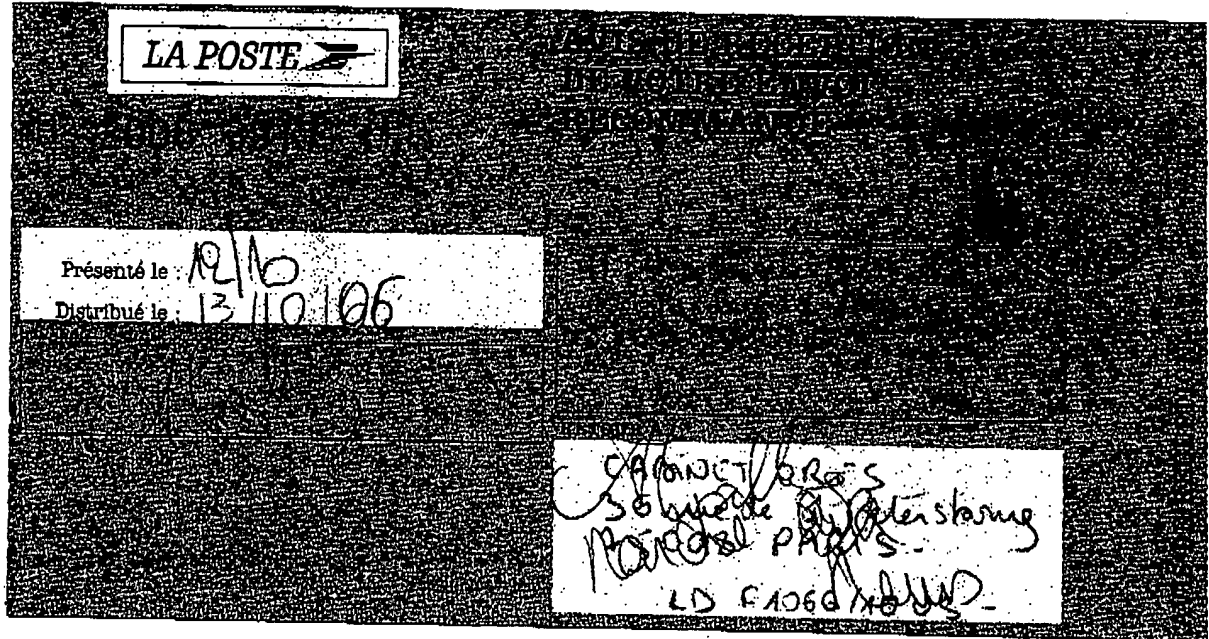
(Signature)  
B.ORES

Enc: Assignment, combined Declaration and Power of Attorney, copy of the International Demande as published and copy of the text as filed in the USA



**EXHIBIT B**

BEST AVAILABLE COPY



Translation of the registered docket (Annex B)

LA POSTE

Sending of a registered mail with  
notice of receipt

(NO of the receipt)

**ADDRESSEE**

Mr Dominique TOSELLI  
21 boulevard Arcole  
31000 TOULOUSE

presented on: October 12, 2006  
Dealt on : October 13, 2006  
Signature of the addressee :

**SENDER**

CABINET ORES  
36 rue de Saint Petersburg  
75008 PARIS  
(LD F1066/10US)

**EXHIBIT C**



36, rue de St Pétersbourg  
75008 PARIS

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MARIE-JOSÉ VIALLE-PRESLES ☐☐☐  
DOCTEUR EN BIOCHIMIE

PHILIPPE JACQUARD ☐☐  
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DOCTEUR VÉTÉINAIRE

XAVIER RATABOUL ☐  
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STÉPHANIE PATARIN ☐  
DOCTEUR EN BIOLOGIE MOLECULAIRE

ENRICO PRIORI ☐  
INGÉNIEUR ÉCOLE CENTRALE PARIS

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FABRICE PIGEUX ☐  
DESS DROIT DU M&A

#### SERVICE ADMINISTRATIF

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DIRECTEUR ADMINISTRATIF ET FINANCIER

ANNIE LECUYER  
RESPONSABLE ADMINISTRATIVE M

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DESS DROIT INFORMATIQUE  
ET SYSTÈME D'INFORMATION

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☐ MANDATAIRE EN BREVETS EUROPEENS  
☐ MANDATAIRE AGREE PRÈS L'OHMI  
☐ DIPLOMÉ DU CERN

S.A. au Capital de 360 000,00 €  
330 023 079 R.C.S. Paris

#### Telecopy and Confirmation

MERCHANT & GOULD P.C.  
901 Fifteenth St. N.W.  
Suite 850  
US-WASHINGTON, D.C. 20005  
USA

MERCHANT & GOULD  
RECEIVED

NOV - 6 2006

D.C. OFFICE

RECEIVED WITH THANKS

Attention to Mr Bill Beaumont

Paris, November 6, 2006

US Patent Application No. 10/519,166

Issued from International Application PCT/FR2003/001933 filed on  
June 24, 2003

In the name of : CLL PHARMA

For : « Solid pharmaceutical composition containing a lipophilic active  
principle and preparation method thereof. »

Invention : ABOU CHACRA-VERNET Marie-Line, ZAKARIAN Noël,  
TOSELLI Dominique, GIMET René, LARUELLE Claude

Priority : France N° 02 07831 of June 25, 2002

Y/Ref.: 70078.15USWO

O/Ref.: SG/LD - F106600010/US/PCT

Dear Sirs,

We write further to your email of September 5, 2006.

We regret to read that the Examiner does not follow our arguments relating  
to the ability of Mr Toselli to identify the invention in reference mentioned  
in the Declaration and the Assignment.

As a consequence, we have re-sent, on October 3, 2006, the above cited  
forms to the inventor together with a copy of the international publication  
and a copy of the US text as filed.

The inventor has received our letter on October 13, 2006 but, without  
surprise, has not returned the executed documents.

Please prepare and file a renewed Petition on the basis of the following  
documents:

- A Statement of facts,
- A copy of our letter sent to the inventor with an English translation  
thereof (annexes A and A'),
- A copy of the executed notice of receipt with an English thereof  
(annex B).

We hope that these new proofs will suite with the approval of the Examiner.  
Of course, we remain at your disposal for further information.



Brief acknowledgement of receipt of these instructions and the accompanying documents upon receipt by facsimile would be very much appreciated.

Very truly yours,

S. GOULARD

B. ORES

Encls. : as mentioned above

**EXHIBIT D**

## STATEMENT OF FACTS

US Patent Application No. 10/519,166

Issued from PCT Application PCT/FR2003/001933 of June 24, 2003

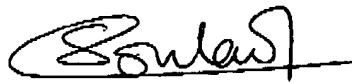
Applicants : ABOU CHACRA-VERNET Marie-Line, ZAKARIAN Noël, TOSELLI Dominique, GIMET René, LARUELLE Claude

For : *Solid pharmaceutical composition containing a lipophilic active principle and preparation method thereof.*

I undersigned Mrs Sophie GOULARD, declare and state that :

1. I am a Patent Attorney of the CABINET ORES, a Patent and Trademark Attorneys Office which address is 36 rue de Saint Petersburg, 75008 Paris, France.
2. I declare that a diligent effort has been made to provide the inventor Dominique TOSELLI with opportunity to sign the Declaration and the Assignment in favour of CLL PHARMA. Hereunder, the steps taken in order to obtain the signature of this inventor are listed:
  - The Declaration and the Assignment have been re-sent to Mr. Dominique TOSELLI on October 3, 2006 by our Firm (copy of the letter and its English translation enclosed as annexes A and A'). A copy of the International publication of the above mentioned PCT Application and a full copy of the US text as filed were attached to said forms. This registered letter and its annexes have been received by the inventor on October 13, 2006 (Copy of the executed notice of receipt with its English translation enclosed as Annex B).
  - In our letter, we asked the inventor to execute the Declaration and the Assignment and to send us these documents before October 19, 2006. Our letter remains without follow-up to date.
3. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any Patent issued thereon.

Date : November 6, 2006



S. GOULARD